

**PETITION FOR RELIEF PURSUANT TO SECTION 70.51, FLA. STAT.
TO THE CITY OF OCALA, FLORIDA**

G & G HOLDING AND TRUST LLC, a Florida limited liability company (“G&G”) and FUTURE STARS PRESCHOOL ACADEMY INC., a Florida corporation (“FSPA”) (G&G and FSPA collectively the “Petitioner”), by and through its undersigned counsel, hereby petitions the City of Ocala, Florida (the “City”) for relief pursuant to Section 70.51, Florida Statutes, the Florida Land Use and Environmental Dispute Resolution Act (“FLUEDRA”), and states:

The Property and FLUEDRA

1. G&G is the property owner of approximately 0.56 acres of real property located within the City of Ocala, Florida more particularly described and depicted on **Exhibit A** attached hereto (the “Property”). Petitioner qualifies as an “owner” of the Property, as defined in the Act, with standing for relief. The City is a “governmental entity” as defined in the Act.
2. The Property currently has a future land use designation of Neighborhood on the City’s Future Land Use Map, which was assigned to the Parent Tract in 2013 as part of the 2035 Comprehensive Plan. The Property has a zoning of R-2, Two-Family Residential.
3. Pursuant to section 70.51(6), Florida Statutes, a Request for Relief must contain:
 - a. A brief statement of the owner’s proposed use of the property.
 - b. A summary of the development order or description of the enforcement action. A copy of the development order or the documentation of an enforcement action at issue must be attached to the request.
 - c. A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property.
 - d. A certificate of service showing the parties, including the governmental entity, served.

Statement of the Owner’s Proposed Use of the Property

4. Petitioner filed a Special Exception request application (the “Request”) to have the Property granted a Special Exception to allow for the operation of a Day Care Facility in an R-2, Two-Family Residential zoning district with the intent to operate a day care facility on the Property (the “Proposed Use”). A copy of the Request application and related attachments is attached hereto as **Exhibit B**. The Request was subsequently assigned by City Staff Case Number SE23-45207.

Summary of the Development Order

5. City staff issued thorough reports relating to the Request, a copy of which is attached hereto as **Exhibit C**, recommending approval of the Special Exception with conditions.
6. On July 17, 2023, the Request was heard before the Board of Adjustment (the “BOA”). The Request was tabled until September 18, 2023.

7. On September 18, 2023, the Request was heard before the BOA. In addition to the City staff report, City staff presented competent and substantial evidence relating the compatibility of the use, the lack of expected negative impact on the surrounding areas, a deficit of day care facilities in the NW quadrant of Ocala, and relating to the activation of a vacant building in this portion of Ocala. Based on questions from members of BOA levied at the previous BOA hearing in July, City staff provided testimony that the drop off and pickup times for the adjacent public school “differ greatly” from the times the Proposed Use’s drop off and pickups would occur. Ultimately, City staff reiterated its recommendation of approval for the Request. Members of the BOA then began expressing to City staff concerns related to dumpster placement, dumpster unloading times, dumpster buffering, drop off procedures and their impact on traffic, and the permitted number of students allowed in the day care. City staff advised that the dumpster location and buffering would be determined by Public Works at the time the minor site plan is reviewed and approved. One member of the BOA then asked City staff what other business uses were permitted in R-2 zoning districts and began naming examples of what commercial uses are not permitted in R-2 zoning districts, including a gym and a 10-chair salon. Petitioner and members of the public then presented testimony.
8. Petitioner, submitted oral testimony in support of the Request, substantiation of safeguards relating to drop off procedures, offered to consider alternative conditions, including alternative placement for the dumpster in the site plan approval process and requiring (as was already to be the case) that day care would not be opened on weekends, and then discussed the reduced capacity of the Proposed Use compared to the prior use of the Property as a church.
9. Upon conclusion of Petitioner presentation and public comment, BOA members commenced discussion amongst themselves and made further inquiry of City staff. During such discussion, one BOA member expressed his objection to allowing any commercial use in an R-2 zoning district and asked the other members of the BOA to “put themselves in the shoes” of a neighboring landowner. There was particular discussion by BOA regarding the appropriateness of the area for day care uses with emphasis on the fact that a dumpster would be present, even though the Property is adjacent a public school across NW 14th Street to the south, is located adjacent to a four-lane road, and has been a church previously. City staff directed the BOA to review the Standards for Approval contained in the City Code and a BOA member responded by citing standards (a)-(c) but omitting (d)-(j) despite the fact that the City Code states that the Board of Adjustment “shall show in its record these factors and the disposition made thereof.” A member of the BOA moved to deny the Request, and City staff asked for that member to state the reason for the denial on the record. The reason given was “I don’t think it’s compatible with a residential neighborhood. It doesn’t fit.” No other competent and substantial evidence was referenced by members of BOA, and BOA voted 4-2 to deny the Request. City staff provided FSPA with a letter of “Denial of Special Exception Application”, a copy of which is attached hereto as **Exhibit D**, along with a copy of the meeting minutes relating to the Request as published by the City which is attached hereto as **Exhibit E**.

**Statement of the Impact of the Development Order on the Ability
of the Owner to achieve the Proposed Use of the Property.**

10. BOA's denial of the Request unreasonably and unfairly burdens Petitioners use of the Property as it deprives the Petitioners of the ability to utilize the Property for the Proposed Use.
11. The Property is comprised of a church building and parking lot which was not designed or suitable for residential uses. As such, denial of the Request leaves the Petitioner with no other non-residential uses for the Property besides operating a church (which would still require a Special Exception), operating an assisted living facility (which would also still require a Special Exception), or abandoning the improvements all together.
12. Finally, pursuant to Section 122-135 of City Code, BOA's denial of the Request precludes application for any Special Exception on the entirety of the Property for a period of one year unless waived by affirmative vote of the City Council.

WHEREFORE, based upon the foregoing, Petitioner requests relief under the Act, including the forwarding of this petition to a special magistrate for proceedings required by the Act, together with any and all relief permitted under the Act.

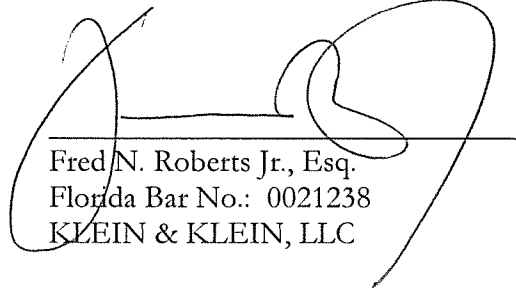
Respectfully submitted, October 18, 2023



Fred N. Roberts Jr., Esq.
Florida Bar No.: 0021238
KLEIN & KLEIN, LLC
40 SE 11th Avenue
Ocala, FL 34471
Phone: (352) 732-7750
Fax: (352) 732-7754
fred@kleinandkleinpa.com
Attorney for Petitioner

CERTIFICATE OF SERVICE AND FILING

I, the undersigned, hereby certify that a true and correct copy of the foregoing Petition has been filed with Hon. Mayor Kent Guinn, Mayor of the City of Ocala, by hand delivery to City of Ocala City Hall, 110 SE Watula Avenue, Ocala, FL 34471 and by electronic mail to kguinn@ocalafl.org.



Fred N. Roberts Jr., Esq.
Florida Bar No.: 0021238
KLEIN & KLEIN, LLC

CC: William Sexton, Esq.
City Attorney
VIA EMAIL ONLY - wsexton@lawyersocala.com
(w/ encl.)

Peter Lee
City Manager
VIA EMAIL ONLY - plee@ocalafl.org
(w/ encl.)

**Exhibit A
Property**

Lots 1, 2, and 3, Bunche Heights, according to the map or plat thereof, as recorded in Plat Book C, Page(s) 98, of the Public Records of Marion County, Florida. Less Road Right of Way

Exhibit B
Request for Special Exception Application
(12 Pages Attached)



GROWTH MANAGEMENT DEPARTMENT
DEVELOPMENT SERVICES
201 SE 3rd STREET, (Second Floor), OCALA, FL 34471
Phone: (352) 629-8404 Fax: (352) 629-8242
Email: gmd@ocalafl.org Website: www.ocalafl.org

SPECIAL EXCEPTION REQUEST
(\$1,250)

Due Date: Complete application 45 days prior to Zoning Board of Adjustment meeting held on the third Monday of the month. Incomplete applications will not be processed until all required information is submitted. Staff may request additional information to properly review the application.

1. Name of Petitioner(s): Future Stars Preschool Academy Inc.

Address of Petitioner(s): 1601 NW 14th Street

City Ocala State FL Zip Code 34475 Phone # 407-474-3800

Fax # 352-509-3900 Email address HarcoUCC@gmail.com

2. a. Parcel account number(s) [from tax roll]: _____

b. Section _____ Township _____ Range _____ Size of Property _____

c. Legal Description: (Please attach)

NOTE: It shall be the applicant's responsibility to provide the correct legal description for the subject property. The application will not be processed until a correct legal description is provided. An electronic file of the legal description in Word format must be submitted with the application.

3. Street address of the property (if the property has no street address Development Services will complete this section):

1601 NW 14th Street Ocala FL 34475

4. a. Present Land Use designation: Church Assembly

b. Present Zoning District: _____

5. a. Description of the request: Preschool / Daycare

b. Is a variance being requested along with this special exception? _____

6. The following items are required (The application will not be processed if these items do not accompany the application.):

- a. Deed or other proof of ownership
- b. Notarized signature of the current property owner(s) and the agent's signature, if applicable
- c. The appropriate fee in cash or check (Payable to the City of Ocala)
- d. Site plan or site sketch drawn to scale submitted electronically as a pdf.
- e. Electronic file of legal description in Word format Property card Legal Description

I, Anita Gonzalez, as owner of G&G Holding and Trust LLC,
[Name] [Title] [Entity name]
G&G Holding & Trust LLC, being first duly sworn, affirm and say that I am the owner of the property
[State registry & type (i.e., Inc., LLP, etc.)]
described above.

[Signature]
Owner's Signature

1601 NW 14th Street
Address (Street)

407.462.9187
Phone Number

Ocala FL 34475
City, State, Zip Code

State of Florida

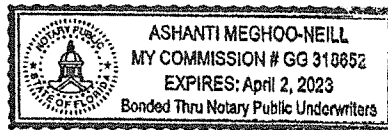
County of Marion

The foregoing instrument was acknowledged before me this 8th, day of February, 2023.

by Anita Gonzalez, as owner of Future Stars Personal Academy, a
[Name] [Title] [Entity name]
Florida + Inc., who is personally known to me or has produced
[State registry & type (i.e., Inc., LLP, etc.)]

Drivers License as identification and who did / did not take an oath.

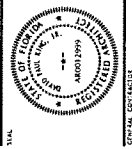
[Signature]
NOTARY PUBLIC



Commission No.: GG318652

Commission Expires: April 2, 2023

DRAWING ISSUED FOR PLANNING PERMITS
REVISED



David P. King, Jr.
ARCHITECT
2505 NW 41ST AVE
SUITE 100
BOCA RATON, FL 33433
305.412.2177 (PH)
305.412.2177 (FAX)

RESPONSIBLE
STATE OF FLORIDA
PROJECT

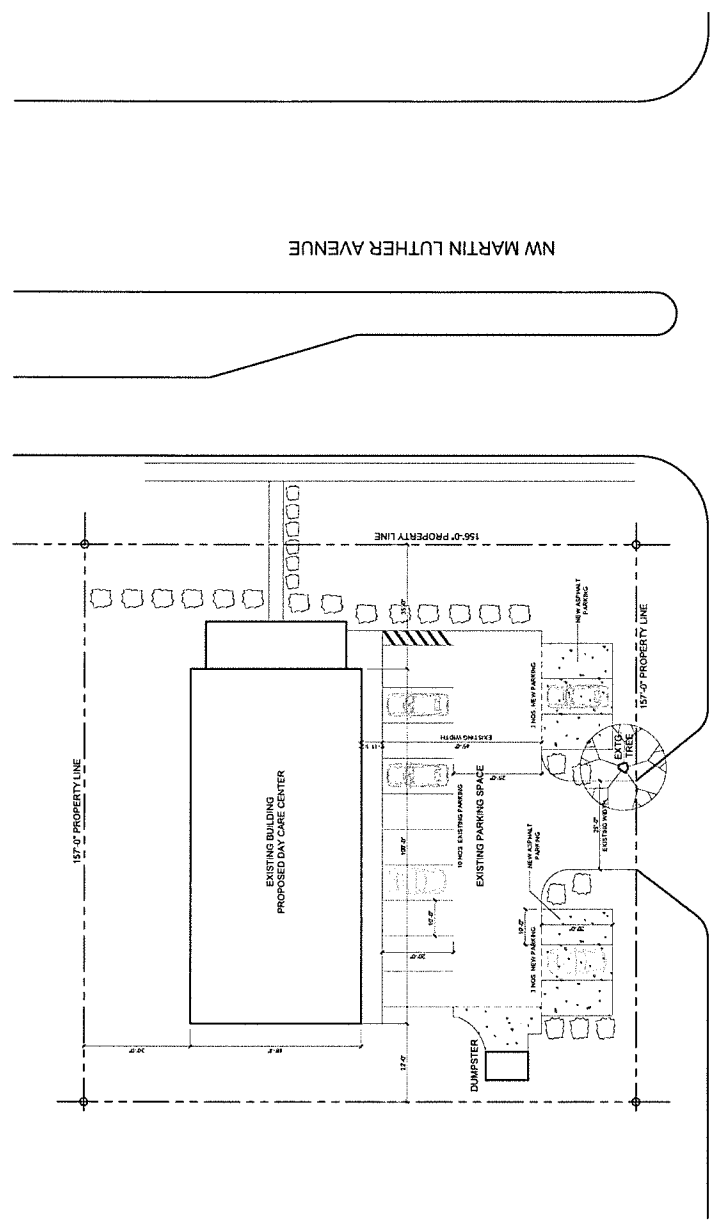
A
INTERIOR REMODEL

FOR
FUTURE STAR
PRESCHOOL
ACADEMY Inc.

NOVEMBER 2017
CITY OF BOCA RATON
DRAWN BY:
CHECKED BY:
APPROVED BY:
ARCHITECT'S PROJECT No.:

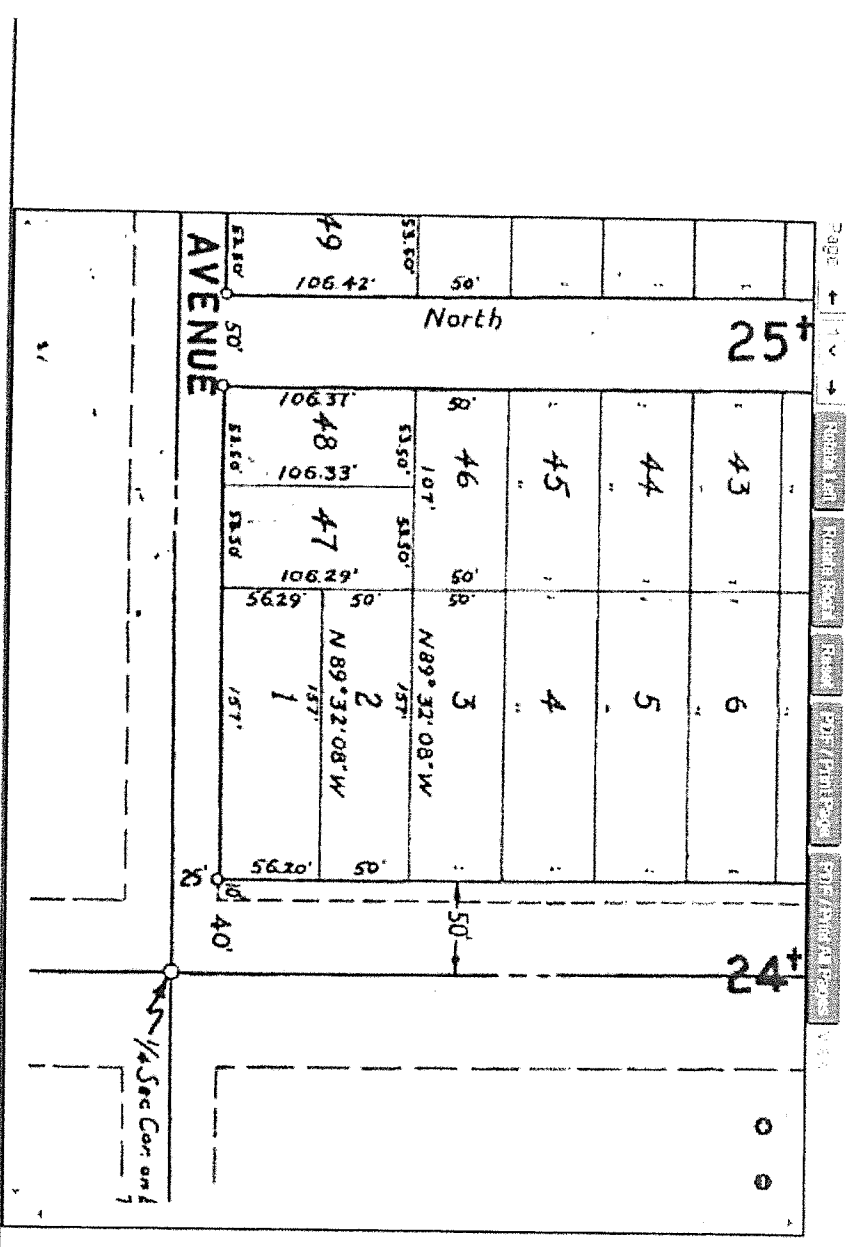
SHEET TITLE
SITE PLAN
SHEET NUMBER

SP-1

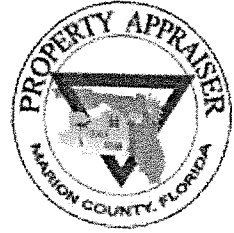


SITE PLAN
Scale: 1/8" = 1'-0"

NW 14TH STREET



Jimmy H. Cowan, Jr., CFA
 Marion County Property Appraiser



2023 Property Record Card

2195-000-000

[GOOGLE Street View](#)

Prime Key: 554341

[Beta MAP IT+](#)

Current as of 2/15/2023

Property Information

G & G HOLDING AND TRUST LLC
 8002 SE 62 LOOP
 Ocala FL 34472-4330

Taxes / Assessments:
 Map ID: 161
 Millage: 1001 - Ocala

M.S.T.U.
PC: 71
 Acres: .56

Situs: 1601 NW 14TH ST Ocala

2022 Certified Value

Land Just Value	\$12,605		
Buildings	\$310,993		
Miscellaneous	\$4,741		
Total Just Value	\$328,339		
Total Assessed Value	\$327,558	Impact	
Exemptions	\$0	<u>Ex Codes:</u>	(\$781)
Total Taxable	\$327,558		
School Taxable	\$328,339		

History of Assessed Values

Year	Land Just	Building	Misc Value	Mkt/Just	Assessed Val	Exemptions	Taxable Val
2022	\$12,605	\$310,993	\$4,741	\$328,339	\$327,558	\$0	\$327,558
2021	\$7,878	\$285,161	\$4,741	\$297,780	\$297,780	\$0	\$297,780
2020	\$7,878	\$294,214	\$4,741	\$306,833	\$306,833	\$0	\$306,833

Property Transfer History

Book/Page	Date	Instrument	Code	Q/U	V/I	Price
7950/0136	12/2022	07 WARRANTY	4 V-APPRAISERS OPINION	Q	I	\$374,000
7922/1327	11/2022	05 QUIT CLAIM	7 PORTIONUND INT	U	I	\$100
7952/0380	04/2009	71 DTH CER	0	U	I	\$100
2142/0725	05/1995	71 DTH CER	0	U	V	\$100
1682/1892	09/1990	07 WARRANTY	8 ALLOCATED	U	V	\$23,460
0513/0653	01/1972	02 DEED NC	0	U	V	\$100

Property Description

SEC 12 TWP 15 RGE 21
PLAT BOOK C PAGE 098
BUNCHE HEIGHTS
LOTS 1.2.3

Land Data - Warning: Verify Zoning

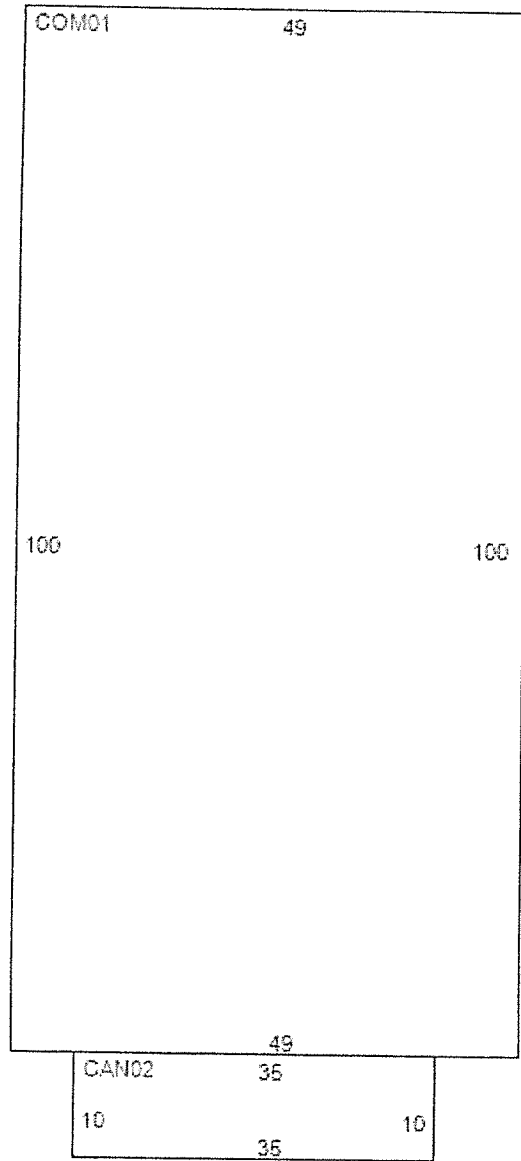
Use	CUse	Front	Depth	Zoning	Units	Type	Rate	Loc	Shp	Phy	Class	Value	Just Value
7120		106.0	157.0	R2	106.00	FF							
0001		50.0	157.0	R2	50.00	FF							

Neighborhood 4523 - BUNCHE/ RICHMOND/BELEDAR ETC
Mkt: 8 70

Traverse

Building 1 of 1

COM01=L49U100R49D100.L8
CAN02=D10L35U10R35.



Building Characteristics

Structure 6 - PILASTERS
Effective Age 5 - 20-24 YRS
Condition 2
Quality Grade 600 - AVERAGE
Inspected on 4/9/2020 by 117

Year Built 1991
Physical Deterioration 0%
Obsolescence: Functional 0%
Obsolescence: Locational 0%
Base Perimeter 298

Exterior Wall 32 CONC BLK-STUCO44 FACE BRICK-BLK

Section	Wall Height	Stories	Year Built	Basement %	Ground Flr Area	Interior Finish	Sprinkler A/C		
1	10.0	1.00	1991	0	4,900	M71 CHURCH	100 %	N	Y
2	10.0	1.00	1991	0	350	CAN CANOPY-ATTACHD	100 %	N	N

Section: 1

Elevator Shafts: 0
 Aprtments: 0
 Kitchens: 0
 4 Fixture Baths: 3
 2 Fixture Baths: 0

Elevator Landings: 0

Escalators: 0

Fireplaces: 0

3 Fixture Baths: 0

Extra Fixtures: 3

Miscellaneous Improvements

Type	Nbr Units	Type	Life	Year In	Grade	Length	Width
159 PAV CONCRETE	848.00	SF	20	1991	3	0.0	0.0
144 PAVING ASPHALT	5,724.00	SF	5	1991	3	0.0	0.0

Appraiser Notes

THE WHOLE TRUTH CHURCH OF THE LORD JESUS CHRIST

Planning and Building

** Permit Search **

Permit Number	Issued Date	Complete Date	Description
OC00226	8/1/1991	-	BLDG01= CHURCH
OC0924	6/1/1991	-	BLDG02= COMM-E/A

Prepared by and return to:

Sandie Rizzo
Brick City Title Insurance Agency, Inc.
8750 SW Hwy 200
Suite 104
Ocala, FL 34481
(352) 390-2880
File No 22-2897

Parcel Identification No 2195-000-000

[Space Above This Line For Recording Data]

WARRANTY DEED

(STATUTORY FORM – SECTION 689.02, F.S.)

This indenture made the **22nd day of December, 2022** between **Stella Mayo and Jerrell White**, whose post office address is 7066 sw 93rd st road ocala, fl 34476, Grantors, to **G & G Holding and Trust LLC, a Florida Limited Liability Company**, whose post office address is 8002 SE 162nd Loop Ocala FL 34472, Grantee:

Witnesseth, that said Grantors, for and in consideration of the sum of TEN DOLLARS (U.S.\$10.00) and other good and valuable considerations to said Grantors in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Marion, Florida, to-wit:

Lots 1, 2, and 3, Bunche Heights, according to the map or plat thereof, as recorded in Plat Book C, Page(s) 98, of the Public Records of Marion County, Florida. Less Road Right of Way

GRANTORS HEREIN EXPRESS THE AFOREMENTIONED PROPERTY IS NOT THEIR HOMESTEAD NOR IS IT CONTIGUOUS THERETO.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

Subject to taxes for 2022 and subsequent years, not yet due and payable; covenants, restrictions, easements, reservations and limitations of record, if any.

TO HAVE AND TO HOLD the same in fee simple forever.

And Grantors hereby covenant with the Grantee that the Grantors are lawfully seized of said land in fee simple, that Grantors have good right and lawful authority to sell and convey said land and that the Grantors hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, Grantors have hereunto set Grantors' hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Janeil Campbell

WITNESS SIGNATURE

Janeil Campbell

PRINTED NAME

WITNESS SIGNATURE

PRINTED NAME

Janeil Campbell

WITNESS SIGNATURE

Janeil Campbell

PRINTED NAME

[Handwritten Signature]

WITNESS SIGNATURE

Erica Jones

PRINTED NAME

Stella Mayo

Stella Mayo

Jerrell White

Jerrell White

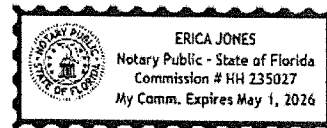
STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of () physical presence or online notarization this 22nd day of December, 2022, by Stella Mayo and Jerrell White.

[Handwritten Signature]

Signature of Notary Public

Print, Type/Stamp Name of Notary



Personally Known: _____ OR Produced Identification: _____
Type of Identification
Produced: _____ Drivers License

JoAnne Brichetto

From: Anita Persaud <futurestarsfl@gmail.com>
Sent: Monday, May 8, 2023 12:57 PM
To: JoAnne Brichetto
Subject: Re Scanned document from HP ePrint user

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

12:56

5G

8 Messages

< All Inboxes Scanned document f... ^ v

- A. Submitted a drawing for the parking lot (attached)
- B. No off-street parking and loading
- C. Trash is picked up at the curbside in the neighborhood.
- D. This is an existing property with utilities in place. The change of use will not change current utilities in place.
- E. The existing property will not effect change of use or any line item in line E.
- F. Presently, the property has a monument sign out front and is lit up at night by existing fixtures. Our proposed use will and can use the monument sign and any lighting in place.
- G. We will need open space for a playground as our change of use will require a playground for childcare.
- H. Playground equipment will not exceed 8 feet height and we will be permitting a new fence along the perimeter of the property.
- I. Our new proposed use of this property is for childcare, which is needed in the area. The existing building was a church, and we will maintain the exterior structure as is with slight improvements.
- J. We are not changing any of the exterior of the structure however we will be making some improvements such as painting and some beatifications (landscaping).



Sent from my iPhone

**Exhibit C
City Staff Report
(4 Pages Attached)**



Applicant: Future Stars Preschool Academy Inc
Property Owner: G & G Holding and Trust LLC
Project Planner: Endira Madraveren, AICP

Request: Special Exception to allow a Day Care Facility in R-2, Two-Family Residential zoning district

Parcel Information

Location: 1601 NW 14th Street
Acres: +/- 0.56 acres
Parcel #: 2195-000-000
Land Use: Neighborhood
Zoning: R-2, Two-Family Residential
Existing use: Church/place of worship

Adjacent Land

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning District</u>	<u>Current Use</u>
North	Neighborhood	R-3	Vacant/Undeveloped
East	Neighborhood	GU	Communications Tower
South	Neighborhood	Inst	Howard Middle School
West	Neighborhood	R-3	Single-Family Residential

Background:

The church/place of worship was constructed in 1991. Records with Ocala Electric Utility indicate that the church, operating as “Church of Lord Jesus Christ” had electric services from July 1991 until December 2022. The property, which is located in the 1600 block of NW 14th Street, is located in the northwest quadrant of the City. The property was purchased by G & G Holding and Trust LLC in December 2022.

G & G Holding purchased the property with the intention of operating a day care facility from this location. Day care facilities are only permitted in the R-2, Two-family residential, zoning district by special exception.

Staff Recommendation: Approval of SE23-45207 with conditions

Basis:

Approval of the special exception with conditions is recommended as the proposed day care facility is compatible with the surrounding area and the applicant has met the standards for

approval of a Special Exception pursuant to Ocala Code of Ordinances Section 122-73(5). In addition, an amendment to Day Care Facility land development code regulations to allow indoor play areas in lieu of outdoor play areas for day care facilities was approved by City Council on August 1, 2023. Without the code amendment, use of the property as a day care may not be allowed unless additional land is acquired in order to provide outdoor play area.

Ocala Code of Ordinance information:

Special exception definition: a use that would not be appropriate generally or without restriction throughout a zoning division or district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the health, safety, welfare, morals, order, comfort, convenience, prosperity or general welfare.¹

Special Exception Standards for Approval (Section 122-73(5))²:

The Code states that the Board of Adjustment, in reaching its conclusion and in making the required findings, shall consider and weigh the following factors and standards, among others, and shall show in its record these factors and the disposition made thereof. Further, the board shall find in the case of any of these factors and standards, that the purposes and requirements for granting the special exception have been met by the applicant. The required factors to be weighed are as follows:

- a. Ingress and egress to the property and the proposed structures thereon, if any, including such considerations as automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Ingress/egress to the property is from an existing driveway on NW 14th Street. The main entrance/exit to the building is located on NW Martin Luther King Jr Avenue.

- b. Off-street parking and loading areas, where required, including consideration of ingress and egress to the property, and the economic, noise, glare or odor effects of the location of such off-street parking and loading areas on adjacent and nearby properties and properties generally in the district.

The requirement for a day care facility is 1 parking space per 5 children, plus one space for each employee (Sec. 122-1010(a)(2)). There are a proposed 50 students and 3 employees, requiring 13 parking spaces. The new conceptual site plan provided by the applicant indicates 16 parking spaces can be provided. Parking is accessed from NW 14th Street. The additional parking is subject to site plan approval.

- c. Refuse and service areas, and how these areas correspond with both the off-street parking area, and the ingress and egress to the site.

An acceptable dumpster location will be determined by Public Works staff during the minor site plan process.

- d. Utilities, including such considerations as hook-in locations and availability and compatibility of utilities for the proposed use.

Water and sewer service is available.

- e. Screening and buffering, including consideration of such relevant factors as type, dimensions and character to preserve and improve compatibility and harmony of use and structure between the proposed special exception and the uses and structures of adjacent and nearby properties and properties generally in the district.

Screening and buffering requirements will be determined during the minor site plan process.

- f. Signs, if any, and proposed exterior lighting, if any, with reference to glare, traffic safety and economic effects of signs and lighting on properties in the district and compatibility and harmony with other properties in the district.

All signage must comply with Chapter 110, Ocala Code of Ordinances.

- g. Required yards and open spaces.

It appears the property was developed in accordance with yard requirements pursuant to Chapter 122, Ocala Code of Ordinances.

- h. Height of structure where related to uses and structures on adjacent and nearby properties and properties generally in the district.

No exterior building construction is proposed.

- i. Economic effect on adjacent and nearby properties and properties generally in the district of the grant of the special exception.

The proposed use is consistent with and supportive of existing nearby uses including existing educational facilities nearby. The proposed use should not negatively impact adjacent and nearby properties.

- j. Visual, physical and economic impact of the proposed project or use on a historically designated property and district.

The proposed use will activate a vacant building.

Recommended Conditions of Approval:

1. The subject property cannot support an outdoor play area. City Code and Statutes allow indoor play area space in lieu of outdoor play space for urban child care facilities if it is deemed unavailable. The City is classified as an urban area by the U.S. Census Bureau.
2. The applicant shall obtain site plan approval to address the increase of impervious surface for additional parking spaces, the reduction of drainage retention area, as well as screening, buffering, and sanitation requirements.
3. The applicant shall apply for building permits for interior renovation of the building in order to meet building code requirements and site permits for installation of additional parking.
4. Certificate of Occupancy must be obtained within 2 years of the approval of this Special Exception.

5. The approval of the Special Exception will remain with the property in perpetuity.

Exhibit D
Letter of Denial of Special Exception Application
(1 Page Attached)



City of Ocala

September 28, 2023

Future Stars Preschool Academy, Inc.
c/o Anita Gonzalez
1601 NW 14th Street
Ocala, FL 34475

RE: Denial of Special Exception Application
City of Ocala, Florida – Board of Adjustment
Case Number SE23-45207

Dear Ms. Gonzalez,

This letter confirms the denial of your application for a special exception, as required by Section 122-353(4)(b)(2), *Code of Ordinances, City of Ocala, Florida*, to allow a day care facility on the property located at 1601 N.W. 14th Street, which has a City of Ocala zoning designation of R-2, Two-Family Residential. Said application was denied by the Board of Adjustment for City of Ocala, Florida in Case Number SE23-45207 following a public hearing conducted in accordance with Chapter 122, *Code of Ordinances, City of Ocala, Florida*, and other relevant provisions of Florida law on or about September 18, 2023.

Following a presentation to the Board of Adjustment of a staff report prepared by the City of Ocala's planning staff which included the relevant standards for approval as outlined in Section 122-73, *Code of Ordinances, City of Ocala, Florida*, the Board of Adjustment voted 4-2 to deny the application; asserting that the proposed use of the property as a day care facility would not be compatible with the surrounding land uses in the residential neighborhood.

In the event that you have any additional questions or concerns regarding this matter, please do not hesitate to give me a call.

Sincerely

Endira Madraveren, AICP
Senior Planner

Exhibit E
BOA Meeting Minutes 9-18-23
(5 Pages Attached)



Ocala

Board of Adjustment

Minutes

110 SE Watula Avenue
Ocala, FL 34471

www.ocalafl.gov

Monday, September 18, 2023

5:30 PM

1. Call To Order

Present: Vice Chair James Hartley
George Carrasco Jr.
William R. Futch
Rusty Juergens
Justin MacDonald
Chairperson Joyce Johnson

Absent: Dustin Magamoll

a. Pledge

b. Roll Call for Determination of a Quorum

Present: Vice Chair James Hartley
George Carrasco Jr.
William R. Futch
Rusty Juergens
Justin MacDonald
Chairperson Joyce Johnson

Absent: Dustin Magamoll

c. Agenda Notes

2. Proof of Publication

a. Star Banner Ad

Attachments: [September BOA AD.pdf](#)

3. Approval of Minutes

a. BOA Minutes - Minutes from July 17, 2023

Attachments: [BOA July 17 Final Minutes](#)

RESULT: APPROVED

MOVER: George Carrasco, Jr.

SECONDER: James Hartley

AYE: Vice Chair Hartley, Carrasco, Futch, Juergens and Chairperson Johnson

ABSENT: Magamoll

4. Special Exception

a. SE23-45207 / G & G Holding and Trust LLC

Attachments: SE23-45207 Staff Report
23-7001 - DAYCARE CENTER rev1-SITE (2)
DaycareCentersWithZoning (002)
CaseMap
Aerial

Ms. Madraveren displayed maps and various photos of the property and adjacent properties while providing staff comments and the findings of fact.

Discussion:

Mr. Carrasco requested information regarding the dumpster schedule. He suggested adding time restrictions to prevent noise impacts. Ms. Madraveren responded the applicant must submit a minor site plan application for the Public Works Department to establish the dumpster locations and a pickup schedule.

Ms. Madraveren confirmed the retention area is facing NW 14th Street. She said the applicant submitted a conceptual site plan in July, which has been modified. The applicant plans on utilizing staggered pick-up to prevent car lines.

Mr. Juergens expressed a concern regarding the dumpster noise. He asked if the plan includes buffering on the backside of the property. Ms. Madraveren responded the Public Works Department can relocate the dumpsters to a different area.

Mr. Futch said traffic stacking is very hazardous.

Ms. Madraveren clarified the procedures for the car stacking operations. She explained how the daycares use the pull-in/pull-out parking method. She provided a brief overview of the R-2 zoning uses.

Mr. Carrasco expressed concern regarding the traffic impacts.

Ms. Anita Gonzalez, 2746 NE 14th Street, Ocala, FL, stated the existing daycare location does not allow carpooling, because it is prohibited by State law. She provided a brief overview of the drop-off/pick-up operations. The proposed dumpster location can be changed. She has never received complaints regarding the dumpster noise at the existing location. However, she will work with the Public Works Department to create a schedule to satisfy the Board's concerns. The proposed drop-off schedule is 6:00 am to 8:30 am. It is subject to change, and the proposed maximum capacity is 50 students.

Mr. Anthony Collins, 1425 NW 16th Court, Ocala, FL, spoke in opposition of the proposed use. He expressed concern regarding the pedestrian safety, the increased noise, and the traffic impacts. He submitted several traffic area photos into evidence.

Ms. Gonzalez stated Mr. Collins concerns are regarding the existing Howard Middle School. The daycare will not operate on weekends, and the proposed student capacity is

less than the church capacity.

Mr. MacDonald stated the traffic going westbound on NW 14th Street would not be an issue.

Mr. Collins expressed concern regarding increased noise and loss of quality of life.

Ms. Gonzalez stated the daycare will not have a set pick-up schedule.

Motion to decline SE23-45207, not compatible with the residential neighborhood.

RESULT: DENIED

MOVER: George Carrasco, Jr.

SECONDER: William R. Futch

AYE: Carrasco, Futch, Juergens and Chairperson Johnson

NAY: Vice Chair Hartley and MacDonald

ABSENT: Magamoll

b. SE23-45254 / Guinn III Properties LLC

Attachments: SE23-45254 Advanced Tire Recommendation
Concept #1
CaseMap
Aerial

RESULT: TABLED

MOVER: William R. Futch

SECONDER: Justin MacDonald

AYE: Vice Chair Hartley, Carrasco, Futch, Juergens, MacDonald and Chairperson Johnson

ABSENT: Magamoll

c. SE23-45266 / HCA Florida West Marion Hospital

Attachments: SE23-45266 Staff Report
CaseMap
Aerial
Supplemental Exterior Elevations

Ms. Johnson displayed maps and various photos of the property and adjacent properties while providing staff comments and the findings of fact.

Discussion:

Mr. Futch asked if the City had a copy of the previously approved application from 2017, and wanted to know if the applicant met the conditions. Ms. Johnson confirmed the applicant met the conditions within 5 years of approval.

Ms. Johnson confirmed the building height is 58-feet. The applicant requested the originally approved 97-feet, to be carried on with the property for future expansion.

Ms. Johnson reiterated the applicant requested 97-feet; however, the addition will only be 58-feet. The applicant is requesting 97-feet for future development.

Ms. Barb Smith, 736 Mt. Pleasant, Nashville, TN, stated they are requesting 97-feet, to match the existing tower. The hospital would like to have the opportunity to expand vertically in the future, if needed.

No public comment.

Motion to approve to increase the maximum height in the INST, Institutional zoning district, from (50) feet to (97) feet, for property located at 4600 SW 46th Court (Parcel # 23832-001-00) approximately 36.77 acres.

RESULT: APPROVED

MOVER: Justin MacDonald

SECONDER: William R. Futch

AYE: Vice Chair Hartley, Carrasco, Futch, Juergens, MacDonald and Chairperson Johnson

ABSENT: Magamoll

d. SE23-45300 / Juan M Vasquez

Attachments: [SE23-45300 Staff Report](#)
[SE23-45300 Concept Plan Rev 14 Units](#)
[CaseMap](#)
[Aerial](#)

Ms. Johnson displayed maps and various photos of the property and adjacent properties while providing staff comments and the findings of fact.

Discussion:

No Board or public comment.

Motion to approve a request to allow multifamily in a B-4, General Business zoning district, for property located at 424 SW 11th Street; approximately 0.54 acres.

RESULT: APPROVED

MOVER: Justin MacDonald

SECONDER: George Carrasco, Jr.

AYE: Vice Chair Hartley, Carrasco, Futch, Juergens, MacDonald and Chairperson Johnson

ABSENT: Magamoll

- e. SE23-45311 / Pac 3 Properties, LLC

Attachments: [Staff Report](#)
[Aerial](#)
[CaseMap](#)
[Site Plan](#)

Ms. Miller displayed maps and various photos of the property and adjacent properties while providing staff comments and the findings of fact.

Discussion:

Ms. Miller confirmed the property is adjacent to a previously approved property with a special exception for the retention area.

No public comment.

Motion to approve to allow multifamily in a B-2, Community Business zoning district, for property located at the northeast corner of SW 6th Avenue and SW 12th Street (Parcel# 25829-000-00); approximately 2.17 acres.

RESULT: APPROVED
MOVER: Justin MacDonald
SECONDER: William R. Futch
AYE: Vice Chair Hartley, Carrasco, Futch, Juergens, MacDonald and Chairperson Johnson
ABSENT: Magamoll

- 5. **Comments**
- 6. **Next Meeting: October 16, 2023**
- 7. **Adjournment**
The meeting adjourned at 6:47 PM.